

**SETTLEMENT AGREEMENT BETWEEN STATE BOARD OF PHARMACY
AND MICHAEL C. GRAVATT, R.PH.**

Michael C. Gravatt, R.Ph. ("Gravatt") and the State Board of Pharmacy ("Board") enter into this settlement agreement for the purpose of resolving the question of whether Gravatt's registered pharmacist license will be subject to discipline. The parties jointly stipulate and argue that a final disposition of this matter may be effectuated as described below.

Pursuant to the terms of § 536.060, RSMo 2000,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri. Gravatt acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline. Being aware of these rights provided to Gravatt by operation of law, Gravatt knowingly and voluntarily waives each and every one of these rights freely and enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to him.

¹ All statutory citations are to the 2000 Revised Statutes of Missouri, as amended, unless

Gravatt acknowledges that he has received a copy of the Complaint filed before the Administrative Hearing Commission, and the investigative report and other documents relied upon by the Board in determining there was cause for discipline, along with citations to law and/or regulations the Board believes were violated. For the purpose of settling this dispute, Gravatt stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Gravatt's license as a pharmacist, License No. 42203, is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Chapter 338, RSMo, as amended.

Joint Stipulation of Facts

1. Petitioner, the State Board of Pharmacy ("Board") is an agency of the State of Missouri created and established pursuant to § 338.110, RSMo², for the purpose of executing and enforcing provisions of Chapter 338, RSMo.

2. Michael Gravatt, R.Ph. ("Gravatt") is licensed by the Board as a licensed pharmacist, License No. 42203. Gravatt's license is, and at all relevant times herein, current and active.

3. On or about December 2, 2005 through December 4, 2005, Gravatt possessed and consumed Alprazolam.

4. On or about December 2, 2005 through December 4, 2005, Gravatt possessed and consumed Valium.

otherwise noted.

² All citations to the 2000 Missouri Revised Statutes, unless otherwise noted.

5. On or about December 2, 2005 through December 4, 2005, Gravatt possessed and consumed Clonazepam.

6. On or about December 2, 2005 through December 4, 2005, Gravatt possessed and consumed Percocet

7. On or about December 2, 2005 through December 4, 2005, Gravatt possessed and consumed Vicodin.

8. On or about December 2, 2005 through December 4, 2005, Gravatt possessed and consumed Darvocet.

9. On or about December 2, 2005 through December 4, 2005, Gravatt possessed and consumed Tylenol #3.

10. On or about December 2, 2005, through December 4, 2005, Gravatt did not have a current prescription for Alprazolam.

11. On or about December 2, 2005, through December 4, 2005, Gravatt did not have a current prescription for Valium.

12. On or about December 2, 2005, through December 4, 2005, Gravatt did not have a current prescription for Clonazepam.

13. On or about December 2, 2005, through December 4, 2005, Gravatt did not have a current prescription for Percocet.

14. On or about December 2, 2005, through December 4, 2005, Gravatt did not have a current prescription for Vicodin.

15. On or about December 2, 2005, through December 4, 2005, Gravatt did not have a current prescription for Darvocet.

16. On or about December 2, 2005, through December 4, 2005, Gravatt did not have a current prescription for Tylenol #3.

17. Alprazolam is a Schedule IV controlled substance pursuant to § 195.017.8(2)(a), RSMo.

18. Valium (Diazepam) is a Schedule IV controlled substance pursuant to § 195.017.8(2)(n), RSMo.

19. Clonazepam is a Schedule IV controlled substance pursuant to § 195.017.8(2)(i), RSMo.

20. Percocet (Oxycodone and Acetaminophen) is a Schedule II controlled substance pursuant to § 195.017.4(1)(a)n, RSMo, and § 195.017.4(b), RSMo.

21. Vicodin (Hydrocodone and Acetaminophen) is a Schedule III controlled substance pursuant to § 195.017.4(d), RSMo.

22. Darvocet-N (propoxyphene napsylate) is a Schedule IV controlled substance pursuant to § 195.017.8(1)(b), RSMo.

23. Tylenol #3 (codeine phosphate and acetaminophen) is a Schedule III controlled substance pursuant to § 195.017.6(4)(a), RSMo, and/or § 195.017.6(4)(b), RSMo.

24. Gravatt's possession of Alprazolam, a controlled substance pursuant to § 195.017.8(2)(n), RSMo, without a valid prescription is in violation of § 195.202.1,

RSMo, which states in pertinent part “[e]xcept as authorized by sections 198.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.”

25. Gravatt’s possession of Valium (Diazepam), a controlled substance pursuant to § 195.017.8(2)(n), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo, which states in pertinent part “[e]xcept as authorized by sections 198.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.”

26. Gravatt’s possession of Clonazepam, a controlled substance pursuant to § 195.017.8(2)(i), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo, which states in pertinent part “[e]xcept as authorized by sections 198.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.”

27. Gravatt’s possession of Percocet (Oxycodone and Acetaminophen), a controlled substance pursuant to § 195.017.4(1)(a)n, RSMo, and § 195.017.4(b), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo, which states in pertinent part “[e]xcept as authorized by sections 198.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.”

28. Gravatt’s possession of Vicodin (Hydrocodone and Acetaminophen), a controlled substance pursuant to § 195.017.4(d), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo, which states in pertinent part “[e]xcept as authorized by

sections 198.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.”

29. Gravatt’s possession of Darvocet-N (propoxyphene napsylate), a controlled substance pursuant to § 195.017.8(1)(b), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo, which states in pertinent part “[e]xcept as authorized by sections 198.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.”

30. Gravatt’s possession of Tylenol #3 (codeine phosphate and acetaminophen), a controlled substance pursuant to § 195.017.6(4)(a), RSMo, and/or § 195.017.6(4)(b), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo, which states in pertinent part “[e]xcept as authorized by sections 198.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.”

31. On or about December 5, 2005, through December 7, 2005, Gravatt was employed as a pharmacist at Wal-Mart in Macon, MO.

32. While employed as a pharmacist at Wal-Mart, Gravatt established a relationship of professional trust with his employer.

33. On or about December 7, 2005, Gravatt was terminated as a pharmacist at Wal-Mart in Macon, MO for gross misconduct and violation of Wal-Mart’s alcohol and drug abuse policy.

Joint Conclusions of Law

34. Gravatt's conduct constitutes grounds for discipline pursuant § 338.055, RSMo, which states in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any of the following causes:

* * *

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

* * *

(17) Personal use or consumption of any controlled substance unless it is prescribed, dispensed, or administered by a health care provider who is authorized by law to do so.

35. Cause exists to discipline Gravatt's license pursuant to § 338.055.2(15), RSMo, because Gravatt possessed Alprazolam, a controlled substance pursuant to § 195.017.8(2)(n), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo.

36. Cause exists to discipline Gravatt's license pursuant to § 338.055.2(15), RSMo, because Gravatt possessed Valium (Diazepam), a controlled substance pursuant

to § 195.017.8(2)(n), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo.

37. Cause exists to discipline Gravatt's license pursuant to § 338.055.2(15), RSMo, because Gravatt possessed Clonazepam, a controlled substance pursuant to § 195.017.8(2)(i), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo.

38. Cause exists to discipline Gravatt's license pursuant to § 338.055.2(15), RSMo, because Gravatt possessed Percocet (Oxycodone and Acetaminophen), a controlled substance pursuant to § 195.017.4(1)(a)n, RSMo, and § 195.017.4(b), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo.

39. Cause exists to discipline Gravatt's license pursuant to § 338.055.2(15), RSMo, because Gravatt possessed Vicodin (Hydrocodone and Acetaminophen), a controlled substance pursuant to § 195.017.4(d), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo.

40. Cause exists to discipline Gravatt's license pursuant to § 338.055.2(15), RSMo, because Gravatt possessed Darvocet-N (propoxyphene napsylate), a controlled substance pursuant to § 195.017.8(1)(b), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo.

41. Cause exists to discipline Gravatt's license pursuant to § 338.055.2(15), RSMo, because Gravatt possessed Tylenol #3 (codeine phosphate and acetaminophen), a

controlled substance pursuant to § 195.017.6(4)(a), RSMo, and/or § 195.017.6(4)(b), RSMo, without a valid prescription is in violation of § 195.202.1, RSMo.

42. Cause exists to discipline Gravatt's license because Gravatt consumed and unlawfully possessed Alprazolam without a valid prescription in violation of § 338.055.2(17), RSMo.

43. Cause exists to discipline Gravatt's license because Gravatt consumed and unlawfully possessed Valium (Diazepam) without a valid prescription in violation of § 338.055.2(17), RSMo.

44. Cause exists to discipline Gravatt's license because Gravatt consumed and unlawfully possessed Valium (Diazepam) without a valid prescription in violation of § 338.055.2(17), RSMo.

45. Cause exists to discipline Gravatt's license because Gravatt consumed and unlawfully possessed Clonazepam without a valid prescription in violation of § 338.055.2(17), RSMo.

46. Cause exists to discipline Gravatt's license because Gravatt consumed and unlawfully possessed Percocet (Oxycodone and Acetaminophen) constitutes a violation of the professional trust Gravatt established with his employer in violation of § 338.055.2(17), RSMo.

47. Cause exists to discipline Gravatt's license because Gravatt consumed and unlawfully possessed Vicodin (Hydrocodone and Acetaminophen) without a valid prescription in violation of § 338.055.2(17), RSMo.

48. Cause exists to discipline Gravatt's license because Gravatt consumed and unlawfully possessed Darvocet-N (propoxyphene napsylate) without a valid prescription in violation of § 338.055.2(17), RSMo.

49. Cause exists to discipline Gravatt's license because Gravatt consumed and unlawfully possessed Tylenol #3 without a valid prescription in violation of § 338.055.2(17), RSMo.

Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of §§ 338.055 and 621.045.3, RSMo 2000.

1. Gravatt's pharmacist license, License No. 42203, is immediately placed on PROBATION for a period of five (5) years. The terms of this probation shall be:

GENERAL TERMS

A. Gravatt shall keep the Board apprised of his current home and work addresses and telephone numbers. If at any time Gravatt is employed by a temporary employment agency or maintains employment that requires frequent daily or weekly changes of work locations he must provide the Board a list of locations worked if requested by the Board or Board's representative.

B. Gravatt shall pay all required fees for licensing to the Board and shall renew his license prior to October 31 of each licensing year.

C. Gravatt shall comply with all provisions of Chapter 338, Chapter 195, and all applicable federal and state drug laws, rules and regulations and with all federal and state criminal laws. "State" here includes the State of Missouri and all other states and territories of the United States.

D. Gravatt shall make himself available for personal interviews to be conducted by a member of the Board or the Board of Pharmacy staff. Said meetings will be at the Board's discretion and may occur periodically during the disciplinary period. Gravatt will be notified and given sufficient time to arrange these meetings.

E. Gravatt's failure to comply with any condition of discipline set forth herein constitutes a violation of this disciplinary Order/Agreement.

F. The parties to this Order/Agreement understand that the Board of Pharmacy will maintain this Order/Agreement as an open record of the Board as provided in Chapters 338, 610, and 620, RSMo.

G. If, after disciplinary sanctions have been imposed, Gravatt ceases to keep his Missouri license current or fails to keep the Board advised of his current place of employment and residence, such periods shall not be deemed or taken as any part of the time of discipline so imposed.

H. Gravatt shall provide all current and future pharmacy and drug distributor employers and pharmacist/manager-in-charges a copy of this disciplinary Order/Agreement within five (5) business days of the effective date of discipline or the beginning date of each employment. If at any time Gravatt is employed by a temporary employment agency, he must provide a copy of this Disciplinary Order/Agreement to such temporary employment agency within five (5) business days of the effective date of discipline or prior to the beginning date of such employment.

I. Gravatt shall not serve as a preceptor for interns.

PROBATION TERMS

J. Gravatt shall not serve as a pharmacist in charge or in a supervisory capacity without prior approval of the Board. For the purposes of this Settlement Agreement, the phrase "supervisory capacity" means directing or supervising the work of other licensed pharmacists.

K. Gravatt shall submit to blood tests and/or periodic, urinalysis, at Gravatt's cost. The timing and/or scheduling for testing is within the Board's sole discretion.

L. Gravatt shall, along with another Missouri-licensed pharmacist, conduct an initial inventory on all controlled substances at his place of employment upon the date that this disciplinary order/agreement takes effect or on the first date of employment within any establishment that maintains an inventory of controlled substances. All drugs shall be physically counted with no estimation. The inventory must be signed and dated by both Gravatt and the other pharmacist attesting to its accuracy. The required inventory must be completed prior to or at the time of any scheduled work assignments. The initial inventory shall be immediately available to a member of the Board or the Board of Pharmacy staff. The foregoing inventory requirements shall not apply to services performed by Gravatt for a temporary employment agency at any pharmacy where Gravatt has a reasonable expectation of working fewer than 10 days within any 30-day period of time.

M. Gravatt shall report to the Board, on a preprinted form supplied by the Board office, once every six (6) months, beginning six (6) months after this Order/Agreement becomes effective, stating truthfully whether or not he has complied with all terms and conditions of his disciplinary order.

N. Gravatt shall complete an alcohol/drug abuse counseling and treatment program approved by the Board. Said program shall meet the requirements set forth in 4 CSR 220-2.170 (6).

1. Documentation required for counselor/program approval must be submitted to the Board office and Gravatt's counselor/program must receive Board approval within three (3) months after the effective date of this Order/Agreement. Any unexpected or requested change in treatment counselor/program shall be submitted to the Board within ten (10) days of the change; and the program approval process must again be completed.

2. Gravatt shall, within three (3) months of the effective date of this Order/Agreement, undergo an evaluation for chemical dependency performed by a licensed or certified chemical dependency professional. Gravatt shall cause the results of the evaluation to be mailed directly to the Missouri Board of Pharmacy, P.O. Box 625, Jefferson City, MO 65102 within ten (10) days after the evaluation has been completed. Each evaluation report shall include Gravatt's present state of impairment; a description of the tests performed and the results; discussion of the relevant clinical

interview findings/interpretations; specification of DSN IV diagnosis/es; appropriate treatment recommendations/plans; the beginning date of treatment; and an assessment for future prospects for recovery. If there is no diagnosis requiring treatment, this should be reported in the evaluation. Gravatt shall follow any treatment recommendations made by that chemical dependency professional.

3. Gravatt shall provide a copy of this Order/Agreement to all chemical dependency professionals involved in Gravatt's treatment, and all medical professionals issuing/renewing a controlled substance prescription to Gravatt. Said disclosure shall be made before the evaluation required by the immediately preceding paragraph, before the issuance of any new prescriptions for controlled substances and, in the case of renewed/refilled prescriptions for controlled substances, disclosure shall be made within ten (10) days of the effective date of this Order/Agreement. Gravatt shall simultaneously report to the Board office that said disclosure has taken place.

4. Gravatt shall execute a limited medical release, involving his drug and alcohol treatment program only, effective for the entire disciplinary period authorizing any chemical dependency professional to release records and/or communicate with the Board, or its representative, regarding Gravatt's treatment and/or counseling. Gravatt shall not take any action to cancel this release. Gravatt shall take all steps necessary to continue the release in effect and shall provide a new release when requested.

5. Gravatt shall cause a report of ongoing treatment evaluation to be submitted from the Board-approved chemical dependency professional to the Board office on the schedule prescribed by 4 CSR 220-2.170(6)(E), which is quarterly. The quarterly report shall be completed by the treating professional and four weeks after the end of each quarter a report shall be delivered for the prior quarter. The report shall include an evaluation of Gravatt's current progress and status related to the treatment recommendations/plan, and Gravatt's current prognosis as well as revised treatment recommendations/plan. Reports required by this paragraph shall no longer be required after Gravatt has completed the alcohol/drug abuse counseling and treatment program under paragraph N.

6. Gravatt shall submit evidence of attendance at Alcoholics Anonymous, Narcotics Anonymous or other support group meetings at least two times each month (or more frequently if recommended by Gravatt's drug treatment counselor) throughout the disciplinary period. The evidence shall be provided to the Board once every six (6) months. The documentation shall include the date, time, and place of each meeting and shall bear a signature or abbreviated signature of another person verifying attendance.

7. If the treatment of Gravatt is successfully completed at any time during the disciplinary period, Gravatt shall cause the board-approved chemical dependency professional to submit a report of final evaluation/summary.

8. Gravatt shall abstain completely from the use or consumption of alcohol. The presence of any alcohol whatsoever in a biological fluid sample shall constitute a violation of discipline.

9. Gravatt shall provide the Board office, within ten (10) days of the effective date of this Order/Agreement, a copy of all controlled substance prescriptions, dispensed or to be dispensed, in Gravatt's possession on the effective date of discipline. The following information shall be provided: the prescription number, drug name, strength, dosage instructions, prescriber's name and address, the name and address of the pharmacy where the prescription was/will be dispensed, date dispensed, number of refills available, and any other requested information concerning the prescription.

10. Gravatt shall abstain completely from the personal use or possession of any controlled substance or other drug for which a prescription is required unless use of the drug has been prescribed by a person licensed to prescribe such drug and with whom Gravatt has a bona fide relationship as a patient. Upon request, Gravatt shall execute a medical release authorizing the Board to access all records pertaining to Gravatt's condition, treatment, and prescription maintained by the health care professional that prescribed the controlled substance. The presence of any controlled substance whatsoever in a biological fluid sample for which Gravatt does not hold a valid prescription shall constitute a violation of this Order/Agreement. Gravatt shall provide the Board with a copy of each prescription received, controlled or non-controlled, within five

(5) days of Gravatt's receipt of the prescription.

11. Gravatt shall inform any physician or other medical professional who is writing a prescription for Gravatt that he is participating in an alcohol/drug abuse counseling and treatment program.

O. When the Well-being Committee created in 2007 by Senate Bill 195 in Section 338.380 is established, fully functional, and fully operational, Gravatt is required to become a participant in the Committee's program for the remainder of the disciplinary period. The Board will notify Gravatt when this occurs and Gravatt will bear all the costs of the program. Notwithstanding the foregoing, Gravatt shall not be required to repeat the evaluation required under Paragraph 1 N 1 above or to change the alcohol/drug abuse counseling and treatment program previously approved by the Board under paragraph 1 N 1 or the course of treatment for that program.

P. Gravatt shall take and pass the Board's designated jurisprudence (law) examination during the first year of probation. Gravatt shall register to take the Multistate Pharmacy Jurisprudence Examination (MPJE) online at the National Association of Boards of Pharmacy (NABP) website, www.nabp.net, no less than ninety (90) days prior to the date Gravatt desires to take the examination. Gravatt shall complete the registration materials and submit them and the required fee to NABP. If Gravatt is unable to obtain the registration materials online, Gravatt shall contact the NABP office for the required registration materials. Upon Gravatt's receipt of an Authorization to Test (ATT), Gravatt shall schedule the exam as instructed. If necessary, Gravatt will be given three opportunities to take and pass the examination. To prepare for the examination, Gravatt shall access the Board's website to review the laws and regulations. The Gravatt will bear all cost involved in taking the examination.

2. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the

enforcement of the change, waiver, discharge, or termination is sought.

3. Upon the expiration of said discipline, Gravatt's license as a registered pharmacist in Missouri shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Board determines that Gravatt has violated any term or condition of this settlement agreement, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Gravatt.

4. No order shall be entered by the Board pursuant to the preceding paragraph of this settlement agreement without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

5. If the Board determines that Gravatt has violated a term or condition of this settlement agreement, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this settlement agreement in its determination of appropriate legal actions concerning that violation. If any alleged violation of this settlement agreement occurred during the disciplinary period, the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held to determine whether a violation occurred and, if so, it may impose further discipline. The Board retains jurisdiction to hold a hearing to determine if a violation of this settlement agreement has occurred.

6. Gravatt hereby waives, releases, acquits, and forever discharges the Board,


its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof void or unenforceable.

7. Gravatt understands that he may, either at the time the settlement agreement is signed by all parties, or within fifteen (15) days thereafter, submit the settlement agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Gravatt's license. If Gravatt desires the Administrative Hearing Commission to review this settlement agreement, Gravatt may submit his request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

8. If Gravatt requests review, this settlement agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the settlement agreement sets forth cause for disciplining Gravatt's license. If Gravatt does

not request review by the Administrative Hearing Commission, the settlement agreement goes into effect 15 days after the document is signed by the Executive Director of the Board.

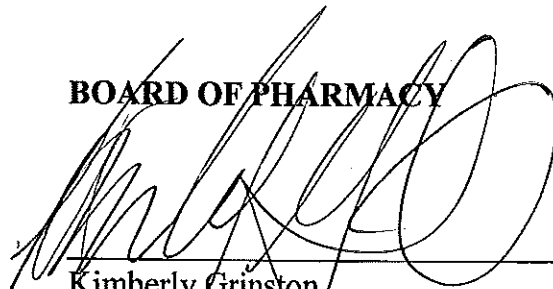
LICENSEE



Michael Gravatt
Pharmacist R.Ph.

Date: August 3 2009


BOARD OF PHARMACY




Kimberly Grinston
Executive Director

Date: August 28 2009

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